

Digest of A Performance Audit of The Department of Environmental Quality

The Utah Department of Environmental Quality (DEQ) has grown substantially since 1990, developing from a state division into a full-fledged department. Growth in both budget and staff have primarily been in response to national Environmental Protection Agency (EPA) directives and some state-sponsored legislation. DEQ has grown out of necessity to accommodate new federal requirements, however, there are changes taking place federally that may signal a new direction for state environmental policy. The EPA is undergoing philosophical changes that will affect DEQ in both funding and programs administration. It is possible that the state will gain more authority and responsibility for programs but be less able to rely on federal funding, thus making it necessary for the state to find new ways of paying for programs. In anticipation of these changes, the state should begin exploring new funding mechanisms and identifying environmental priorities. As part of this process, the DEQ should pay close attention to local needs and rethink methods of service delivery and agency organization to better serve the citizens Utah.

This audit was requested by the Legislative Process Committee to serve as part of that committee's in-depth budget review of the Department of Environmental Quality. As such, the audit is not a comprehensive review of the department's many environmental programs nor does it attempt to evaluate either the effectiveness or efficiency of any individual program. Rather, we have conducted a general survey of the department's organizational structure, funding sources, and overall effectiveness in responding to current and proposed federal and state environmental legislation. However, some areas and programs were reviewed in more detail at the request of individual legislators. During the course of the audit, we found areas where attention and possibly improvements are needed. The following statements summarize the most significant of those findings and conclusions:

State Program Growth is a Result of Federal Involvement. State environmental programming is driven by federal EPA programs and the accompanying funding. DEQ staff and budget have experienced dramatic growth in response to increasing EPA requirements and as the transition from a division of the Department of Health to a full-fledged department has been made. In the past 5 years, the EPA has expanded existing programs and added new programs to state requirements all of which have contributed to the growth of environmental staff in all states. In addition, Utah's operating budget has increased significantly. Federal funding increases accounted for the greatest dollar amount increase for the fiscal years 1990 through 1994. Even though the DEQ has experienced unusual growth, that growth is attributable to funding from sources other than general funds appropriated by the Legislature.

Looking ahead, the state needs to anticipate federal funding changes. The EPA Five-Year Strategic Plan indicates that states should rely less on federal funding for environmental

programs in the future. States may have an increased responsibility for funding programs if these changes take place. However, the EPA plans to offer block grants that will be more general in nature, allowing states to apply funding in a more comprehensive way. These grants are intended to act in lieu of categorical grants that have traditionally been offered to federal acts such as the Clean Air Act, Clean Water Act, Safe Drinking Water Act, and the Solid Waste Disposal Act.

EPA Policy Changes Can Affect State Service Delivery. The EPA has expressed the desire to give more program authority and responsibility to the individual states through the Five-Year Strategic Plan and through the National Environmental Performance Partnership Agreement. A major goal of the EPA is to alter not just funding mechanisms but the thinking behind the system. These changes offer the DEQ the opportunity to accept greater program authority and review its own service delivery system. Notwithstanding these anticipated changes, the EPA is and will continue to be the final authority on environmental issues.

The DEQ as an organization is modeled after the EPA's structure and is organized around the six core statutes that make up the body of U.S. environmental policy. As changes in EPA philosophy are manifested to the states, the state should identify areas in need of attention locally. Some areas where the DEQ may want to focus include: (1) creatively solving service delivery problems so that program delivery is efficient and suited to local needs; (2) redistributing resources including staff to meet the changing populations in the state; and (3) rethinking how best to render service delivery based on state priorities.

Balancing federal, state and local needs with department mission. The DEQ has been given the difficult task of balancing Utah's environmental interests with those of other organizations. We identified four areas where legislative clarification may be needed to eliminate conflict among DEQ, federal, local and business interests.

Management of Utah's Petroleum Storage Tank (PST) fund needs clarification. The fund was established with the primary purpose of meeting a federal requirement to ensure financial liability in the event of leaking petroleum tanks. However, money from the fund may be appropriated by the Legislature for other purposes and there are concerns that this practice may contribute to fund insolvency. In addition, soil sampling and analysis are not required of tank owners and operators prior to being admitted into the PST fund. A basic tenet of the law prohibits payment to remediate leaks that occurred before tanks were accepted into the fund. Without soil sampling it is often impossible to determine when a leak occurred. The Legislature should consider whether the current practices related to the PST fund are in the best interest of the state and the Underground Storage Tank (UST) program.

Authority and responsibility for the vehicle emission testing program are divided. Currently, Utah is under pressure from the EPA to implement an Enhanced Inspection and Maintenance (EIM) program. The Utah State Legislature granted authority to county governments to allow them to decide whether or not to pursue EIM implementation or find another viable alternative. Thus, the DEQ's role has been one of technical support to the counties because the DEQ has no formal authority to implement the program. The DEQ is, however, still responsible for the program and though not legally bound needs to include EIM in both the federally required state implementation plans and the state's Conformity Plan with the Utah Department of Transportation (UDOT) to protect federal program funding. Legislative action may be necessary to straighten out the confusion in the management of the EIM program and prevent possible loss of federal funding.

The need for a state air quality testing and research center is questionable. The Division of Air Quality would like to focus on the maintenance aspects of EIM with a mechanics' training center at Weber State University. In addition to this, Air Quality wants to develop a research facility to pursue vehicle emissions research. These ventures combined would cost upwards of \$4 million. Mechanic training may be a worthy goal but it is unclear how it fits with existing department priorities. However, establishing a state testing facility would be costly and redundant with current EPA research efforts. These two initiatives should be reviewed and prioritized with other department goals.

We found additional conflicts in some legislation related to Solid and Hazardous Waste issues. One apparent conflict appears where Utah law is less stringent than federal law regarding the classification of certain types of solid waste and hazardous wastes. A second and related conflict arises from legislative inconsistencies dealing with federally-classified solid waste products that are classified as hazardous by some states, but not by Utah. Finally, Utah state law does not grant the DEQ the authority to accomplish remediation of hazardous waste sites in the state.